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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 14 2006

Paul E. Davis, Director  
Division of Water Pollution Control  
Tennessee Department of Environment and Conservation  
401 Church Street  
L&C Annex 6<sup>th</sup> Floor  
Nashville, Tennessee 37243-0435

Dear Mr. Davis:

The Environmental Protection Agency (EPA) has recently had the opportunity to review the proposed rule revisions to Chapter 1200-4-3 and 1200-4-4 of Tennessee's water quality standards regulations. We appreciate the efforts of your staff to meet with us throughout this triennial review period in order to address the remaining issues outlined in the March 16, 2005 letter from Paul E. Davis, Director of the Division of Water Pollution Control, to Mr. Jim Giattina, Director of the Water Management Division, as well as any other changes being considered to Tennessee's regulations since the last triennial review.

In addition to meeting with you in Chattanooga, Tennessee on January 12, 2006, EPA would like to take this opportunity to provide comments on the currently proposed revisions prior to the end of your comment period on February 15, 2006. We have included these suggestions and other comments on the State's proposed water quality standards as an enclosure to this letter for your consideration during this triennial review. Prior to the conclusion of your public comment period, we would be happy to discuss our enclosed comments and any other issues, as needed.

If you have any questions, please contact me at (404) 562-9478 or have a member of your staff contact Lauren Petter at (404) 562-9272.

Sincerely,

A handwritten signature in black ink, appearing to read "AB", is located below the "Sincerely," text.

Andrew Bartlett, Chief  
Standards, Monitoring, and TMDL Branch

Enclosure

cc: Greg Denton, TDEC

## Comments on the November 2005 Proposed WQS Revisions

Comments and suggestions are organized in order of appearance within the proposed water quality standards regulations. For some of the State's provisions, we are recommending that the State consider specific changes to the rule language. When quoting the State's proposed language, additions are shown underlined while deletions are shown stricken.

1. 1200-4-3-.02(8) was revised into 1200-4-3-.02(8) and 1200-4-3-.02(9). 1200-4-3-.02(9) now states:

(9) Site-specific criteria studies may be conducted on any appropriate fish and aquatic life criteria.

a. Site-specific criteria studies based on a Water Effects Ratio (WER) may supersede the adopted criteria at a site. ~~be conducted on any appropriate fish and aquatic life criteria. When the Division develops or approves site specific criteria~~ ~~a~~ ~~The Water Effects Ratio (WER) methodology study which is based on the calculated toxicity of a parameter substance in the stream to in which it will be introduced. , for any substances for which generally applicable criteria have been adopted, the site specific criteria will supersede the adopted criteria at that location . ecific criteria developed by others provided that an appropriate methodology is used and that both the study plan and results are approved. The Division can approve a site-specific criteria developed by others provided that the WER methodology [Interim Guidance on Determination and Use of Water-effect Ratios for Metals (EPA-823-B-94-001)] is used, both the study plan and results are approved by the department, and the U.S. Environmental Protection Agency has concurred with the final site specific criterion value(s).~~

b. Any site specific criterion based on methodologies other than the WER methodology which recalculate specific criterion, such as the Resident Species Method or the Recalculation Method, must be adopted as a revision to Tennessee water quality standards into Chapter 1200-4-3, and following EPA approval, can be used for Clean Water Act purposes.

References on this subject include, but are not limited to: Technical Support Document for Water Quality-based Toxics Control (EPA - 505/2-90-001); Technical Guidance Manual for Performing Waste Load Allocations: Book VIII (EPA/600/6-85/002a/002b/002c); MinteqA2, An Equilibrium Metal Speciation Model (EPA/600/3-87/012); Water Quality Standards Handbook, Second Edition (EPA-823-B-93-002); The Metals Translator: Guidance for Calculating a Total Recoverable Permit Limit From a Dissolved Criteria (EPA-823-B-96-007). , Interim Guidance on Determination and Use of Water-effect Ratios for Metals (EPA-823-B-94-001).

**Comments:** It appears that paragraph "a" states "Water Effects Ration" instead of "Water Effects Ratio." Furthermore, the following is a suggested revision for paragraph "a" of the proposed language.

Site-specific criteria based on Water Effect Ratio (WER) studies may supersede the adopted criteria at a site. A site-specific criterion based on the WER methodology is based on the calculated toxicity of a parameter in the water body to which it will be introduced. The Division can approve a site-specific criterion developed using the WER methodology [Interim Guidance on the Determination and Use of Water-effect ratios for Metals (EPA-823-B-94-001)] if both the study plan and results are approved by the department and the U.S. Environmental Protection Agency has concurred with the final site specific criterion value(s).

2. 1200-4-3-.03(3)(a) was revised to state:

Dissolved Oxygen - The dissolved oxygen shall not be less than 5.0 mg/l with the following exceptions....3. In wadeable streams in subecoregion 73a and subecoregion 74i, dissolved oxygen levels shall not be sufficient to maintain a diverse biological community. less than a daily average of 5 mg/L with a minimum dissolved oxygen level of 4 mg/L....

**Comments:** The State is proposing to delete the numeric criteria for dissolved oxygen (DO) for wadeable streams in subecoregion 73a, and to replace the criteria with a narrative criterion for DO. Should the State adopt such a change, EPA would need to review all data used by the State to determine that the current numeric criteria are not appropriate for these water bodies. Also, EPA would need to review the methodology that will be used to determine the DO levels for each application of the proposed narrative criteria in this subecoregion.

3. 1200-4-3-.03(4)(f) was revised to state:

Coliform - The concentration of the E. coli group shall not exceed 126 colony forming units per 100 ml, as a geometric mean based on a minimum of 5 samples collected from a given sampling site over a period of not more than 30 consecutive days with individual samples being collected at intervals of not less than 12 hours. For the purposes of determining the geometric mean, individual samples having an E. coli concentration of less than 1 per 100 ml shall be considered as having a concentration of 1 per 100 ml.

Additionally, the concentration of the E. coli group in any individual sample taken from a lake, reservoir, State Scenic River, or Exceptional Tennessee Water or ONRW Tier II or III stream (1200-4-3-.06) shall not exceed 487 colony forming units per 100 ml. The concentration of the E. coli group in any individual sample taken from any other waterbody shall not exceed 941 colony forming units per 100 ml.

**Comments:** Based on our discussions with Tennessee Department of Environment and Conservation staff as well as information on the State's website, we understand the proposed revision, if adopted, would result in an additional level of protection for several

waters throughout Tennessee. It is also our understanding that there are some Tier II waters currently covered by the 487 cfu/100ml E. coli criterion that would be covered by the 941 cfu/100ml E. coli criterion. We request the State provide rationale that an E. coli criterion of 941 cfu/100ml provides an appropriate level of protection for these waters.

4. As revised, 1200-4-3-.03(4)(i) now states:

Nutrient Response Criteria for Specific Reservoirs. Pickwick Reservoir: those waters impounded by Pickwick Dam on the Tennessee River. The reservoir has a surface area of 43,100 acres at full pool, 9,400 acres of which are within Tennessee. Chlorophyll *a* (corrected, as described in *Standard Methods for the Examination of Water and Wastewater, 20th Edition, 1998*): the mean of the photic-zone (See definition) composite chlorophyll *a* samples collected monthly April through September shall not exceed 18 µg/l, as measured over the deepest point, main river channel, dam forebay.

Guntersville Lake: those waters impounded by Guntersville Dam on the Tennessee River. The lake has a surface area of 69,700 acres at full pool, 1,800 of which are within Tennessee. Chlorophyll *a* (corrected, as described in *Standard Methods for the Examination of Water and Wastewater, 20th Edition, 1998*): the mean of the photic-zone composite chlorophyll *a* samples collected monthly April through September shall not exceed 18 µg/l, as measured over the deepest point, main river channel, dam forebay. (The point of compliance for this criterion is in Alabama.)

**Comments:** Based on discussions with the State, EPA understands that Tennessee is using the Alabama Department of Environmental Management's rationale for criteria development for these two reservoirs. If these provisions are adopted by the Board, then as part of the State's submission to EPA, Tennessee would need to include the documentation supporting these criteria. The State would also need to identify the authority by which Guntersville Lake criterion can be implemented, since the point of compliance for the criterion is located outside of the state, or change the point of compliance to within State borders.

5. 1200-4-3-.04(4) was separated into paragraph (4) and (5) as was revised as follows:

(4) (4) Degradation - The alteration of the properties of waters by the addition of pollutants or removal of habitat.

(5) *De Minimis* - Alterations not resulting in the condition of pollution that are represent either a small magnitude or a short duration shall be considered a *de minimis* impact and will not be considered degradation. ~~of a temporary nature or those alterations having de minimus impact (no measurable or less than 5 percent loss of assimilative capacity) will not be considered degradation for purposes of implementing the antidegradation policy.~~ Discharges will be considered *de minimis* if they are temporary or use less than five percent of the available assimilative capacity for the substance being discharged. Water withdrawals will be considered *de minimis* if less than five percent of the 7Q10 flow of the stream

is removed (the calculations of the low flow shall take into account existing withdrawals). Habitat alterations authorized by an Aquatic Resource Alteration Permit (ARAP) are *de minimis* if the division finds that the impacts are offset by a combination of impact minimization and/or in-system mitigation. Stream habitat alterations that require an individual Aquatic Resources Alteration Permit (ARAP) shall not be considered *de minimis*, unless a combination of impact minimization and/or in-system mitigation renders the impacts to be of an appropriately small magnitude or short duration.

If more than one activity has been authorized in a segment and the total of the impacts uses no more than ~~The limit on cumulative *de minimis* degradation is ten percent of the assimilative capacity, available habitat, or 7Q10 low flow, they are presumed to be *de minimis*.~~ Where total impacts use more than ten percent of the assimilative capacity, available habitat, or 7Q10 low flow they may be treated as *de minimis* provided that the division finds on a scientific basis that the additional degradation has an insignificant effect on the resource and that no single activity is allowed to consume more than five percent of the assimilative capacity, available habitat or 7Q10 low flow. ~~Degradation will not be considered *de minimis* if a substantial loss (more than 50 percent) of assimilative capacity has already occurred.~~

**Comments:** The definition of “*de minimis*” uses two terms for temporal extent of *de minimis* degradation – “short duration” and “temporary.” Although a precise definition may not be needed in the regulation, the State should clarify, in general terms, what time frames are involved to be considered *de minimis*. Also, the word “not” in the first sentence in the “*de minimis*” definition is confusing. Did the State intend to say “alterations resulting in the condition of pollution represent either...?”

We request that the State explain how the “scientific basis that the additional degradation has an insignificant effect” will be made? In addition, how many of these determinations can be made on a given water body?

The State should explain what is meant by “the calculations of the low flow shall take into account existing water withdrawals” for the *de minimis* flow provision. Does this mean that the baseline 7Q10 is considered to be the current 7Q10 flow after all existing withdrawals have been subtracted from the “natural” 7Q10 flow?

How will calculations be done to determine the percentage of available habitat? Does this relate in any way to the “affected area” of a project in comparison to the drainage area of the watershed at the point in the basin where the activity is proposed to occur?

Since habitat can be considered as a measure of an aquatic life use (as opposed to assimilative capacity, which is usually considered as a measure of relative water quality levels), it may be appropriate to use different judgment criteria to determine levels of de

minimis effects for assimilative capacity and habitat. What is the State's rationale for choosing these values for use in de minimis effect determinations?

How (practically) would the antidegradation process work, if the mitigation did not result in a de minimis impact? Would there be an antidegradation review? The State should explain more about these permits, as EPA understands the State's position to be that not all such permits will necessarily result in a de minimis impact.

We request that the State provide details on the proposed use of offsets in de minimis determinations.

6. General comments on Tennessee's antidegradation policy statement are given first. Where specific comments are provided, the revised language has been included for context and individual comments are included in proximity to the specific revisions.

**General Comment:** EPA recommends that the list of waters currently determined to fall into the category of "Exceptional Tennessee Waters" be available on the Division's website.

1200-4-3-.06(1) was revised into three parts. Paragraph (1) now states:

It is the purpose of Tennessee's standards to fully protect existing uses of all surface waters as established under the Act. Existing uses are those actually attained in the waterbody on or after November 28, 1975. Sources exempted from permit requirements under the Water Quality Control Act should utilize all cost-effective and reasonable best management practices. Additionally, the Tennessee Water Quality Standards shall not be construed as permitting the degradation (See definition) of high quality surface waters. Activities that cause or contribute to non-compliance with a water quality standard will not be allowed. Activities proposed for waters that are not identified as either being Exceptional Tennessee Waters (1200-4-3-.06(4)) or Outstanding National Resource Waters (1200-4-3-.06(5)), will be evaluated on the basis of 1200-4-3-.06(2) and (3). Tier 1 and Tier 2 waters shall be identified on a parameter by parameter basis.

The new 1200-4-3-.06(2) now states:

Unavailable conditions exist where water quality is at, or fails to meet, the criterion for one or more parameters. In unavailable conditions, new or increased discharges of a substance that would cause or contribute to a condition of impairment will not be allowed. Where impairment by habitat alteration exists, additional significant loss of habitat within the same area of influence shall not be authorized unless avoidance, minimization, or in-system mitigation can render the impact de minimis. Tier 1 ~~In bodies of water identified as Tier I by the Division, existing uses will be maintained by application of the General Water Quality Criteria. In Tier I waters found to be at or not meeting not meet a water quality standards for a substance, new or increased discharges of that substance will not be allowed. In waters identified as impacted by habitat alteration, additional~~

~~significant loss of habitat shall not be authorized unless avoidance, minimization, or in-system mitigation can render the impact de minimis.~~

**Comment:** Suggestion for second sentence: "In unavailable conditions, new or increased discharges of a substance that would cause or contribute to a(n) existing condition of impairment will not be allowed."

The new 1200-4-3-.06(3) now states:

Available conditions exist where water quality is better than the applicable criterion for a specific parameter. In available conditions, new or additional degradation for that parameter will only be allowed if the applicant has demonstrated to the division that reasonable alternatives to degradation are not feasible.

(a) Analysis of reasonable alternatives shall be part of the application process and shall include a discussion of the feasibility of all potential alternatives, plus the social and economic considerations and environmental consequences of each. Alternatives analyses shall include, at a minimum, completed and accurate Worksheets A and B for public sector applicants or Worksheets A and G for private system applicants, except where these worksheets are inappropriate for the activity, in which case applicants may substitute materials that provide equivalent information. These forms are found in the EPA guidance document entitled Interim Economic Guidance for Water Quality Standards: Workbook (EPA 823/B-95-002) (Economic Guidance). Reasonable alternatives for the various activities include, but are not limited to the following actions. ~~Tier 2: Waters With Assimilative Capacity~~ For substances or conditions not currently at or in violation of water quality standards, new or additional degradation will only be allowed if the applicant has demonstrated to the Department that reasonable alternatives to degradation are not feasible. Reasonable alternatives for the various activities discharges include, but are not limited to

1. Alternatives for discharges include connection to an existing collection system, land application, water reuse, or water recycling. For small domestic discharges, connection to an existing system or land application will be considered preferable.

2. For water withdrawals, alternatives include water conservation, water reuse or recycling, off-stream impoundments, water harvesting during high flow conditions, regionalization, withdrawing water from a larger water body, use of ground water, connection to another water supply with available capacity, and pricing structures that encourage a reduction in consumption.

3. For activities that cause habitat alterations, alternatives that minimize or avoid degradation should be explored and explained by the applicant. These avoidance or minimization activities could include maintaining or enhancing buffer zones, bridging a stream rather than culverting it, altering the footprint of a project

instead of relocating a stream, or using a culvert without a bottom, instead of one that is fully concreted.

~~Sources exempted from permit requirements under the Water Quality Control Act should utilize all cost-effective and reasonable best management practices.~~

~~The alternatives analysis shall be part of the application process and shall include a discussion of the feasibility of all potential alternatives, plus the social and economic considerations, and environmental consequences of each potential alternative. Alternatives analyses shall include, at a minimum, completed and accurate Worksheets A and B for public sector applicants or Worksheets A and G for private system applicants, except where these worksheets are inappropriate for the activity, in which case applicants may substitute materials that provide equivalent information. These forms are found in the EPA guidance document entitled Interim Economic Guidance for Water Quality Standards: Workbook (EPA 823/B-95-002) (Economic Guidance).~~

(b) For authorized new or expanded discharges, a record of the antidegradation determination(s) will be maintained and will be available for public review. Public participation will be provided in conjunction with permitting activities.

**Comment:** The State is proposing implementation methods for waters addressed in (2), i.e., for waters identified where “available conditions exist.” The federal antidegradation policy for the waters identified in (3) states, “Where the quality of waters exceed the levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation of the State’s continuing planning process, that allowing lower water quality is necessary to accommodate important economic and social development in the area in which the waters are located.” [40 CFR 131.12(a)(2)] Tennessee’s proposed antidegradation policy statement for these waters appears to be limited to the following: “In available conditions, new or additional degradation for that parameter will only be allowed if the applicant has demonstrated to the division that reasonable alternatives to degradation are not feasible.”

Tennessee is requiring consideration of potential alternatives to degradation, as well as the consideration of the social, economic, and environmental consequences of each alternative where “additional degradation” is proposed for a parameter with “available conditions.” These are the factors that will be used by the division in making a decision “that reasonable alternatives to degradation are feasible.” EPA understands that the policy statement proposed for waters in (3) is intended to address the issues of “necessity” and “economic or social importance” of the federal antidegradation statement, and, therefore, Tennessee’s implementation of this provision should result in a State decision process that is equivalent to the federal policy in regard to consideration of information related to those factors. We ask that the State confirm this understanding as the intended process for implementation of the provisions of (3).



In addition to the above comment, it would be helpful if the State refined the antidegradation section to more clearly distinguish between what is antidegradation policy and what part is implementation method. This could be done with a reference to 40 CFR 131.12(a)(2) or revising the language further. Sample language was included in an email from Fritz Wagener to Greg Denton dated January 17, 2006.

**Comment:** EPA supports Tennessee's development of implementation methods for water bodies addressed in (3) for purposes of review of water withdrawals and activities that may cause habitat alterations.

**Comment:** Suggestion for (3)(a)1.: EPA suggests that "alternative levels of treatment" be included in the list of alternatives for discharges addressed in (3).

**Comment:** Suggestion for (3)(b): EPA suggests adding "and intergovernmental coordination" to the second sentence of the paragraph after "Public participation."

**Comment:** We also suggest that this provision address the process for making a determination that degradation will (or will not) be allowed and how that decision may be challenged, e.g., as part of the permitting process.

The previous 1200-4-3-.06(2) is now 1200-4-3-.06(4) and states:

Exceptional Tennessee Waters (Tier 2.5) are: Following are the specific characteristics of Exceptional Tennessee Water: The Tennessee Water Quality Standards shall not be construed as permitting the degradation (See definition) of high quality surface waters. High quality waters are Tier II or Tier III. In Tennessee, Tier III waters are also referred to as Outstanding National Resource Waters (ONRWs). Characteristics of high quality waters include:

(a) Waters within state or national parks, wildlife refuges or management areas, forests, wilderness areas, or natural areas.

(b) State Scenic Rivers or Federal Wild and Scenic Rivers.

(c) (3) Federally-designated critical habitat or other wWaters with documented that provide habitat for ecologically significant populations of state or federally-listed threatened or endangered aquatic or semi-aquatic plants or animals, including those proposed or listed for formal state or federal status.

(d) (4) Waters within areas federally-designated as Lands Unsuitable for Mining pursuant to the federal Surface Mining Control and Reclamation Act.

(e) (5b) Naturally reproducing trout streams. Waters that provide specialized recreational opportunities related to existing water quality.

(f) (6e) Waters with exceptional biological diversity as evidenced by a score of 40 or 42 on the Tennessee Macroinvertebrate Index (or a score of 28 or 30 in subecoregion 73a), provided that the sample is considered representative of overall stream conditions. Waters that possess outstanding scenic or geologic values.

(d) Waters where existing conditions exceed water quality standards.

~~The following w~~The division will maintain a list of waterbodies that have been reviewed and are known to have one or more of the above characteristics on its website and will make paper copies of that list available upon request. However, the Exceptional Tennessee Waters are not limited to this list.

(3) (bag) In other waters identified by the Department as Exceptional Tennessee Waters ~~Tier II high quality waters in accordance with 1200-4-3-.06(2)~~, no degradation will be allowed unless and until it is affirmatively demonstrated to the Department, after full satisfaction of the following intergovernmental and public participation provisions, that a change is justified as a result of necessary economic or social development and will not interfere with or become injurious to any classified uses existing in such waters. At the time of permit renewal, previously authorized discharges, including upstream discharges, which presently degrade Exceptional Tennessee Waters, ~~Tier II waters~~, will be subject to alternatives analysis, but not to a determination of economic/social necessity. Public participation for these existing discharges will be provided in conjunction with permitting activities. Sources exempted from permit requirements under the Water Quality Control Act should utilize all cost-effective and reasonable best management practices.

(ebh) Determination of Economic/Social Necessity - Where reasonable alternatives to degradation to an Exceptional Tennessee Water is ~~Tier II stream~~ are not feasible, applicants may ask the Department to determine that the proposed degradation is justified ... shall be subject to review by the Water Quality Control Board under the following procedures.

1. If the Department determines that degradation is justified, it will notify the applicant, the federal and state intergovernmental coordination agencies, and third persons who requested notification of the determination. Within 30 days after the date of the notification, any affected intergovernmental coordination agency or affected third person may petition the Board for a declaratory order under Tennessee Code ... no intergovernmental coordination agency or third person petitions for a declaratory order within 30 days of the notification date, then the Department shall proceed with processing the permit application.

2. A declaratory order contested case conducted ... Within 120 days, the hearing before the Board shall begin, but the Board on its own initiative may exceed 120 days to complete the hearing and render its final decision. In order for degradation of Exceptional Tennessee Waters ~~Tier II waters~~ to proceed pursuant to these rules, the Board must make a finding approving degradation by a majority vote of the members of the Board present and voting.

3. If the Department determines that degradation is not justified, it will notify the applicant, the federal and state intergovernmental coordination agencies, and third persons who requested notification of the determination. The Department also will issue a tentative ... intergovernmental coordination agencies and third

persons may seek to intervene in the contested case in accordance with Tennessee Code Annotated § 4-5-310.

(ej) Information Requirements:

1. Applicants requesting an economic/social necessity determination to allow degradation under this provision must provide all information required in order for the Department to make a determination that reasonable alternatives to degradation are not feasible.

Reasonable alternatives for discharges may include, but are not limited to, connection to an existing collection system, land application, water reuse, or water recycling. Applicants for permit renewals of previously authorized discharges, including upstream discharges, which presently degrade Exceptional Tennessee Waters, Tier II waters, shall submit as an alternatives analysis completed and accurate Worksheets A and B for public...substitute materials that provide equivalent information. These forms are found in the EPA guidance document (Economic Guidance).

2. Additionally, to provide information to the Department regarding the applicant's claim of economic/social necessity, public sector applicants shall complete and submit, at a minimum, Forms O, P, ... may substitute materials that provide equivalent information.

(dj) Public Participation:

1. NPDES - Applicants seeking permission to degrade Exceptional Tennessee Waters, Tier II waters shall publish a notice in a newspaper of general distribution in the area of the degradation. The notice shall identify the proposed discharge, provide the specific location including affected waters, describe the general basis for requesting permission to degrade Exceptional Tennessee Waters, Tier II waters, inform the public of their opportunity to provide comments, and that a local public meeting will be held by the Department unless the Department notifies the public of its determination that the discharge will not result in degradation. The applicant shall also post a sign within sight of a public road containing the same general information as the newspaper notice. A copy of the newspaper notice and proof of signage shall be provided to the Department. The public meeting held by the Department shall be near the proposed degradation.

2. ARAP/Section 401 Water Quality Certification - If the Department determines that an applicant's proposed activity will not result in degradation, it will so notify the public. If the Department determines that the proposed activity will degrade Exceptional Tennessee Waters, Tier II waters, and the applicant intends to seek permission to do so, then the applicant shall publish a notice in a newspaper of general distribution in the area of the degradation. The notice shall identify the proposed activity, provide the specific location including affected waters, describe the general basis for requesting permission to degrade Exceptional Tennessee Waters, Tier II waters, inform the public of their opportunity to submit comments,

and that a local public meeting will be held by the Department. The public meeting held by the Department shall be near the proposed degradation.

3. Timing of Public Participation - Within 14 days of the Department being informed that an applicant will seek degradation, the applicant shall provide notice, ... if the Department determines that the discharge will not result in degradation, it will so notify the public and in this circumstance, there will be no public meeting.

(e) (k) Intergovernmental Coordination - A notice concerning the request for an economic/social necessity determination shall be provided by the Department to federal and state agencies with jurisdiction over fish, wildlife, shellfish, plant and wildlife resources, parks, and advisory councils for historic preservation.

**Comment:** It appears that the parts of (4) should be revised. Paragraph (4) in the current proposal states, "Exceptional Tennessee Waters are: ..." It appears that (4)(a) through (f) should be separated from the other provisions in (4), since these include the qualifying criteria for Exceptional Tennessee Waters. The narrative, "The division will maintain a list of water bodies...upon request," as well as (g) through (k), are not related to the qualifying criteria, and should be restructured within (4).

**Comment:** Suggestion for (4)(i)1. - EPA suggests that "alternative levels of treatment" be included in the list of alternatives for discharges to Tennessee Exceptional Waters.